MINISTRY OF TREASURY, ECONOMICS
AND INTERGOVERNMENTAL AFFAIRS

LOCAL GOVERNMENT DIVISION

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MUNICIPAL INSURANCE

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MINISTER OF ECONOMICS AND
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INTRODUCTION

Most municipalities in Ontario carry some form of insurance and have had coverage for many years. More often than not, the first insurance coverage obtained was against losses incurred by fire in municipal buildings, and in many instances this may have been the only coverage a municipality had. Because it was relatively inexpensive, and was usually looked after by a local agent, insurance was rarely considered an important item in the annual budget. This was even true as municipalities identified additional risks and asked their agent to obtain coverage against those risks.

More recently, however, some municipalities have been encountering problems in obtaining insurance of the type and amount to protect their assets or to meet the claims that may be brought against them.

The once favoured risk, municipalities and indeed other local authorities are gradually becoming the less favoured risk, especially in the urban areas. This can be seen in the sudden increase in premiums, the increase in deductibles, and in some instances where insurance coverage may not even be available.

Where it may not have been an important item in the past, municipalities have become more and more aware of their insurance needs, especially in the field of liability. Some municipalities have embarked or have seriously considered embarking on a program of self-insurance to help defray the increases in cost.

The intent of this bulletin is to assist municipalities in evaluating their insurance needs. It will outline briefly some of the different kinds of insurance available, and describe some of the ways to obtain it. A separate section will discuss fidelity bonds because of the statutory requirement under The Municipal Act to bond certain municipal staff. The last section will describe the Association of Public Insurance Administrators of Ontario and how this Association may be of assistance.

This bulletin is meant only to highlight some areas regarding insurance for municipalities. It is not meant to be all-inclusive either in the range of possibilities it presents or in answering all the questions you may have. Since the needs of municipalities may differ, you are urged to obtain advice in evaluating and meeting your insurance needs, from insurance agents and brokers, municipal colleagues and associations.

STATUTORY PROVISIONS

The Municipal Act permits a municipality to carry insurance, but does not require it to do so.

Section 352 of the Act allows a municipality to contract for insurance against risks involving pecuniary loss or liability on the part of the municipal corporation (paragraph 3) and to contract for group-life, accident and sickness insurance (paragraph 66).

Section 376, paragraph 2, permits the council of a township to insure firefighters and others in connection with the fire hall. This would be important to those townships employing volunteer firefighters.

Section 390 permits a municipality to provide group-accident, group-public-liability and property-damage insurance for its members of council when they travel on municipal business or perform their duties either within or outside of the municipality.

Authorization to obtain insurance coverage may exist in other acts. For example, section 48 of The Municipal Affairs Act authorizes the treasurer of a municipality to insure land acquired by the municipality consequent upon the registration of a tax-arrears certificate.

What is most important to remember, however, is that while there are relatively few specific statutory provisions with respect to the acquisition of insurance coverage, the acts under which a municipality attracts liability are numerous. Some of these acts are:

The Drainage Act
The Local Improvement Act
The Municipal Elections Act
The Municipal Act
The Municipal Affairs Act

Advice from your solicitor should be obtained to ensure that the effects of various Provincial statutes are evaluated so that the insurance coverage obtained meets the true financial risk.

THE KINDS OF INSURANCE

Insurance coverage is rarely simple. Most policies can carry any number of options, floaters, riders and so on. The variations depend on the needs of the municipality. Every possible need should be investigated with your agent. Where insurance is not presently available, it may be in the future and some companies may start to carry it provided there is a market for it.

To prepare a list of the different kinds of insurance that are available to municipalities is difficult; therefore, for the purposes of this publication, the kinds of insurance described are those that appear to be most applicable to municipalities. Advice should be obtained to ensure that all the risks the municipality wishes to cover are indeed covered, and to assess the risks being covered against the cost of the insurance.

For the purposes of this publication, the kinds of insurance available can be divided into the following three categories - property, liability, and special.

1. PROPERTY INSURANCE

This category mainly refers to the buildings and the property of the municipality, whether owned or leased.

Fire Insurance

This has been and still is the most common insurance carried by municipalities.

The basic policy (also known as a standard fire-insurance policy) is used in most municipalities as a starting point to build up a fire policy to cover various risks. In this basic policy, the perils insured against are fire, lightning and explosions of specific types, such as explosion of natural, coal, or manufactured gas.

This basic policy is usually extended by one of two options, namely Extended Coverage or All Risks. The Extended Coverage endorsement, attached to a fire policy, is the way in which additional specified perils are insured. Some of these perils are impact by aircraft or land vehicle, lightning damage to electrical devices, smoke, riot, leakage from fire-protective equipment, windstorm, hail, and malicious damage or vandalism.

The All Risks endorsement insures against all perils except those that are specifically excluded. The exclusions will be listed in the policy and, if not listed, the municipality will be covered.

The main difference between the Extended Coverage endorsement and the All Risks endorsement is that the All Risks kind provides coverage for risks such as water escaping from plumbing, theft and roof collapse.

Flood insurance is a standard exclusion in all fire policies. It is a particularly complex and much discussed matter and has not been generally available commercially. However, due to the number of flood disasters which have occurred, this could change in the future.

Boiler and Machinery Insurance

This insurance applies to losses resulting from an accident caused by specified boilers, pressure vessels and machinery, as well as damage to the boilers themselves. The basic direct-damage policy provides insurance for damage to municipally-owned property, and legal liability for damage to property of others. Legal liability for bodily injuries is an optional extension (excluding obligations or liability imposed by The Workmen's Compensation Act). There are other options that can also be added to the basic policy.

Today, a few boiler policies are written with each insured object listed specifically on a schedule. More commonly, coverage is provided by "blanket group" descriptions under which all objects of a certain type are insured. Some of the more common blanket-group descriptions include boiler and other fixed vessels, unfired pressure vessels (air tanks, digesters, etc.), electrical power equipment (motors, transformers, etc.) air conditioning and refrigeration equipment and miscellaneous electrical apparatus.

A comprehensive boiler and machinery endorsement is also available which is similar to the All Risks endorsement under your fire insurance. This endorsement would cover all perils except those that are specifically excluded on the endorsement.

2. MUNICIPAL LIABILITY INSURANCE

This kind of insurance protects the municipality against risks involving property damage or bodily injury to others, including accidents caused by automobiles whether owned or non-owned.

The two main types of liability insurance are Bodily Injury and Property Damage Insurance and Errors or Omissions Insurance.

Bodily Injury and Property Damage Insurance

The municipality may be held liable, if the municipality is found negligent, for accidents involving bodily injury or property damage to others occurring on streets and sidewalks, in parks, on playground equipment, in swimming pools, in arenas, while employees are driving automobiles and so on.

Liability insurance is designed to protect the municipality from such financial loss, as well as to pay costs involved in defending an action against the municipality.

Owned and non-owned automobile insurance is considered part of the municipal liability insurance policy.

Automobile insurance coverage applies to municipally-owned licenced vehicles such as official cars, police cars and motorcycles, garbage trucks, fire vehicles and so on. This policy has three parts to it. The first part is designed to provide financial protection for the municipality's legal liability for bodily injury or property damage to others. The second part deals with accident benefits to the individual and provides financial protection following bodily injury. This is mandatory on all automobile policies issued in Ontario. The third and last part protects the municipality against direct and accidental loss or damage to the automobile.

Non-owned automobile coverage protects the municipality for bodily-injury and property-damage liability arising from the use of an automobile in connection with municipal business but not owned by the municipality.

Employees using their own cars on municipal business may only be covered under their own automobile policy. The non-owned automobile policy carried by the municipality will not protect the employee himself if he uses his car on municipal business.

With the increase in the number and size of suits brought about in Canada recently, liability insurance has become extremely important. Limits that were once considered adequate may not be any more and a constant review of your coverage is necessary to ensure that your limits are high enough to cover your exposures.

Certain exclusions and limitations are contained in any liability policy. Your agent should be asked to familiarize you with these exclusions.

Many liability policies only cover claims occurring in Canada or the continental United States. This is a consideration if councillors and staff travel outside of this area, such as in Europe.

There are many extensions that may be considered and can be added to the municipal liability-insurance policy. Some you may wish to enquire about are:

- Contractual Liability (Blanket)
- Contingent Employers Liability
- Blanket Tenants Legal Liability
- Personal Injury (without employee exclusion)
- Occurrence Basis Property Damage
- Marine Liability

Since liability insurance is particularly complex, there are many exclusions normally included in the policies. Advice should be obtained from your agent who can discuss your entire operation and recommend the exact type of coverage your municipality requires.

Errors-and-Omissions Insurance

This insurance protects the municipality from liability caused by an error in judgement or the omission of an action by its accountants, engineers and solicitors during the performance of their duties. This insurance does not include bodily-injury or property-damage liability.

Not only is this errors-and-omissions insurance very complex, but the market is very limited and only certain companies are prepared to entertain this type of coverage. At this time, this insurance is only available to the professional employees of the municipality. In the future it may be extended to the other employees also.

3. SPECIAL INSURANCE

The following types of insurance are available for the special needs of certain municipalities. The following insurance, if necessary, should be included as endorsements to the existing municipal property and liability insurance policies.

Glass Insurance

This coverage insures against loss caused by accidental breakage of glass, windows and doors. The cost of ornamentation and lettering on the glass may also be insured, subject to an additional premium.

The insurance would be particularly appropriate where a municipality has a great deal of expensive and special glass such as thermopane, opaque and reflective.

Crime Insurance (Comprehensive Dishonesty, Disappearance and Destruction)

This insurance is commonly called "3-D" insurance, and is a combination of the coverage for fidelity, forgery and loss of money and securities. (Fidelity bonds will be discussed in depth in a separate section because of the statutory requirements to bond certain municipal officials, but crime insurance, because it does cover fidelity, can satisfy the statutorily-imposed fidelity bond requirements.)

This insurance covers optionally one or more of five separate types of loss:

loss caused by dishonesty of employees

loss of money or securities from within the premises

loss of money or securities while being conveyed by a messenger outside the premises

loss of securities from a safety-deposit box

loss caused by forgery on outgoing instruments (e.g. cheques).

Non-Licenced Equipment Insurance

This insurance covers losses arising from damage to non-licenced equipment such as graders, rollers or other specialized equipment. The insurance would cover owned as well as leased equipment.

The limits of liability will vary according to the amount of non-licenced equipment one has. Therefore, this insurance is usually obtained on a blanket basis so that any additional equipment similar to that insured under the policy is automatically insured.

Valuable-Article Insurance

This type of insurance usually covers articles such as paintings, etchings, pictures, tapestries, and other bona fide works of art against loss, theft or damage. For municipalities, it may cover valuable historical articles and documents, facade sculptures, and so on. Usually this coverage is taken on a specific item basis with a specific value for each item.

Travel-Accident Insurance

This coverage provides compensation to employees or their beneficiaries for loss of limbs, loss of time from work, or death caused by accidents occurring while employees travel on municipal business. This insurance excludes travel to and from work or while the employee is on vacation.

Excess or Umbrella Liability Insurance

This insurance may be obtained to increase the limits of the municipal bodily-injury and property-damage liability and automobile policies. It may be obtained from a separate insurance company to cover claims above the amount provided by the primary insurance coverage.

Special Property Insurance

This insurance covers properties acquired by the municipality under The Tax Registration Procedure. It is of particular interest to those municipalities that feel these properties may not have any, or have insufficient, insurance coverage.

WAYS TO OBTAIN INSURANCE

Coverage can be arranged in two ways, commercially through an agent or a broker or through a program of self-insurance. Most municipalities meet their insurance obligations through an agent or broker and it is usually only the larger municipalities that consider self-insurance.

SELF-INSURANCE

Self-insurance is simply a procedure by which the municipality assumes all or part of its risk. Property insurance is the most likely candidate for self-insurance.

There are basically two ways to set up a self-insurance program. One way is to establish a fund from which claims would be paid. This fund would be created by allocating to it a certain amount of money from general revenue each year. As the fund grows, a higher amount of risk can be covered. The other way is just to pay claims as they arise out of general revenue.

Many of the municipalities that have a self-insurance program usually combine it with commercial insurance in order to protect themselves against any catastrophic loss. For example, the municipality's fire insurance may be looked after by a self-insurance fund up to a certain limit and beyond this limit commercial insurance applies. This procedure saves some money by removing the influence of a great number of small claims on the municipality's commercial insurance rate.

Although savings can be achieved, a self-insurance program must be administered by someone on staff, a cost that must be considered. This administrative cost may offset any savings.

Self-insurance programs can be very complicated. They should be thoroughly studied before they are undertaken for, sometimes, they have more disadvantages than benefits.

COMMERCIAL COVERAGE

For the majority of municipalities, their needs are covered by commercial insurance contracted through

an agent or broker. There are several ways to obtain commercial coverage. Some of these ways are:

1) <u>General Tender or Open Tender</u>

In this procedure a municipality may issue a general tender requesting interested agents and brokers to bid for its insurance business. With general tendering, the municipality must prepare the tendering specifications with sufficient underwriting information and with specific coverage requirements -- a demanding exercise.

2) <u>Invited Tender or Closed Bidding</u>

In this approach, the municipality invites a limited number of agents or brokers to bid on its insurance needs. This approach limits the number of agents or brokers responding to those the municipality feels can meet its needs. Although this approach may simplify the process, the municipality must still prepare the tendering specifications in the same detail as in the general-tendering approach.

3) <u>Contracting With One Agent or Broker</u>

This approach is the most popular with municipalities and has been generally the practice for a number of years. Many of the municipalities using this approach are satisfied that it meets their needs. A municipality should not, however, feel so secure with its agent or broker that it fails to review its coverage periodically.

Although it is simple, direct, and appealing, the municipality choosing this approach must take care that its selection is objective and not perceived as unjustly favouring one agent or broker over others.

4) <u>Market Testing</u>

This process would be used where the municipality is satisfied with the present program but wants to test the rest of the market by making comparisons.

Instead of putting a set of specifications out to bid, an agent or broker who does not handle any of the existing insurance program can be invited to review the coverage, make recommendations, and submit a competitive bid.

5) Hire A Consultant

Insurance consultants can be hired to assess the insurance needs of your municipality. Some can even act on your behalf in evaluating responses to tenders. They can also assist the municipality in establishing a self-insurance program if the approach is warranted.

6) Train A Staff Member

The municipality may designate an individual to be the insurance administrator of the municipality, either full-time, or in addition to the person's other duties. The person could be trained to better understand insurance and reduce the possibility of an uninsured risk in the municipality.

7) Hire An Insurance Administrator or Risk Manager

This approach is relatively new and would probably apply to only the large municipalities. The administrator would be on staff and would be responsible for all activities related to the insurance needs of the municipality. These responsibilities would probably include preparing tenders for insurance, letting insurance contracts, administering a self-insurance program, advising staff on the necessary coverage, attending court when necessary, investigating accidents, planning and implementing safety programs and obtaining the best insurance possible at the most economical price.

FIDELITY BONDS

A fidelity bond is nothing more than honesty insurance and usually applies to people who handle money, such as those in the treasury department. The limit of the bond depends on the circumstances in the municipality. Advice from your agent will help to insure that the coverage is adequate for your needs.

Statutory Requirements

The Municipal Act requires "every treasurer, deputy-treasurer and collector and every other officer of the corporation that the council may require" to be bonded. (section 233, subsections 1-17).

The bond, when it is taken out by the municipality, applies not only to the money of the municipal corporation but also to "school money and to all public money of Ontario" (section 634) and "to money collected or received for county purposes". (section 627). The limit of the fidelity bond should, therefore, consider the total money involved.

Kinds of Bonds Available

There are three kinds of bonds and any one of them will satisfy the requirements of The Municipal Act.

a) Individual Bond

This kind of bond applies to one person only and is taken out by the insurer in the name of that person. Usually in order to be bonded, the person's credit rating is checked and certain information from the employer is obtained.

b) Blanket Position Bond

This type of bond covers several people working in an office or an area. It does not differentiate among them regarding their level of responsibility. The coverage applies equally to each employee and is limited to the value of the bond; for example, $5,000 per employee. This kind of bond usually allows for an "excess indemnity rider" (additional

coverage) for those who handle more money than others. If the municipality elects to take this additional coverage, the positions of the employees, their location and the total number of them must be noted. There is no requirement to identify the people by name in this additional coverage.

c) Commercial Blanket Bond

This bond covers each loss as opposed to each employee in the Blanket Position Bond. The limit of the bond is related to the loss; for example, $50,000 per loss. As in the Blanket Position Bond, there is an "excess indemnity rider" covering those positions that handle more money.

Features of All Bonds

Each bond is in force from the date it is obtained until it is cancelled. This may be for several years.

Claims can only be paid up to the limit of the coverage; however, upon expiration or cancellation of the bond (either by the insured or the insurance company) coverage will still be in effect for a set period of time. In the individual-type bond, the insured can claim up to six months after expiration, provided that the loss occurred during the period of the coverage and went undetected until after coverage ceased. In the blanket-type bonds, this period is up to two years after expiration.

Some bonds, especially those that have been in force for a long time, require a criminal conviction of the person before a claim is paid. In the more recently issued bonds, only reasonable proof of a loss due to fraud or the dishonesty of one or more employees is necessary.

If the "excess indemnity rider" is taken, the insured must designate the person causing the loss before a payment of the claim takes place.

General Comments on Bonds

A fidelity bond performs several services for the municipality. It reimburses it for loss caused by employee dishonesty. It creates a moral restraint among employees and thus tends to prevent losses due to dishonesty. It also protects the financial standing of the employer.

Although any of the three kinds of bonds will satisfy the requirements of The Municipal Act, consideration should be given to the fact that under the Blanket Position Bond it is sometimes difficult to identify additional employees involved in a fraud or the amount each additional employee, if identified, was responsible for in the total amount of the fraud. The Commercial Blanket Bond removes this concern since its coverage applies to each loss. Your insurance agent or your auditor, or both, could advise you as to the kinds of coverage and the limit of the coverage suitable to your needs.

Although the amount of money handled by municipalities and their employees has increased, the limit of their coverage may not have increased. This may be especially true of those municipalities where the bond was obtained some years ago. A review of the coverage on a regular basis, ideally at the time of the renewal, should be automatically made to insure that the municipality has adequate coverage.

ASSOCIATION OF PUBLIC INSURANCE ADMINISTRATORS OF ONTARIO

This Association was formed by municipally employed insurance administrators from across Ontario on March 19, 1976, at a meeting held at the Civic Centre in the Borough of Scarborough. The main purpose is to exchange knowledge and to familiarize its members with new policies and changes in the industry.

At its first annual meeting, held in October 1976, a constitution was established with the following objectives.

a) To exchange knowledge and pursue in depth all matters dealing with insurance and its administration.

b) To collect and disburse information relative to insurance administration.

c) To promote co-operation among all government bodies that have interest in the field of insurance.

d) To encourage the development of educational training programs.

The Association achieves these objectives by holding workshops for its members on various topics dealing with insurance, such as "Tendering for Insurance versus Tendering for a Broker" and "Errors and Omissions Insurance".

Membership is open to employees and elected members from any local government in Ontario.

Any enquiries concerning the Association's membership and workshops should be directed to:

Mr. George R. Peterson
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150 Borough Drive
Scarborough, Ontario.
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Do you want more information on this subject? Ask any of the field officers of the Local Government Division. They are located at these addresses:

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